

**ASSEMBLY BILL**

**No. 1460**

**Introduced by Assembly Member Umberg**

February 22, 2005

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An act to amend Section 66499.7 of the Government Code, relating to subdivided lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1460, as introduced, Umberg. Subdivisions: release of security.

The Subdivision Map Act and local ordinances authorize or require, under specified circumstances, the furnishing of specified types of security with respect to the performance of various acts or agreements subject to the act. The act also requires that security given for faithful performance of any act or agreement be released upon the performance of the act or final completion and acceptance of the required work.

This bill would require that the security be released within 30 days upon the performance of the act or final completion of the required work and would delete the provision that the performance or final completion be accepted as a condition to release of the security.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 66499.7 of the Government Code is
- 2 amended to read:
- 3 66499.7. The security furnished by the subdivider shall be
- 4 released in whole or in part in the following manner:

1 (a) Security given for faithful performance of any act or  
2 agreement shall be released *within 30 days* upon the performance  
3 of the act or final completion ~~and acceptance~~ of the required  
4 work, or the legislative body may provide for the partial release  
5 of the security upon the partial performance of the act or the  
6 acceptance of the work as it progresses, under rules established  
7 by the legislative body. If the security furnished by the  
8 subdivider is a letter of credit, the legislative body shall release  
9 the letter of credit by returning the original letter of credit to the  
10 issuer of the letter of credit upon performance of the act or final  
11 completion and acceptance of the required work. In the event that  
12 the legislative body is unable to return the original letter of credit  
13 to the issuer of the letter of credit, the security shall be released  
14 by written notice sent by certified mail to the subdivider and  
15 issuer of the letter of credit within 30 days of the acceptance of  
16 the work. The written notice shall contain a statement that the  
17 work for which the security was furnished has been performed or  
18 completed and accepted by the legislative body, a description of  
19 the project subject to the letter of credit and the notarized  
20 signature of the authorized representative of the legislative body.

21 (b) Security securing the payment to the contractor, his or her  
22 subcontractors and to persons furnishing labor, materials or  
23 equipment shall, after passage of the time within which claims of  
24 lien are required to be recorded pursuant to Article 3  
25 (commencing with Section 3114) of Chapter 2 of Title 15 of Part  
26 4 of Division 3 of the Civil Code and after acceptance of the  
27 work, be reduced to an amount equal to the total claimed by all  
28 claimants for whom claims of lien have been recorded and notice  
29 thereof given in writing to the legislative body, and if no claims  
30 have been recorded, the security shall be released in full.

31 The release shall not apply to any required guarantee and  
32 warranty period required by Section 66499.9 for the guarantee or  
33 warranty nor to the amount of the security deemed necessary by  
34 the local agency for the guarantee and warranty period nor to  
35 costs and reasonable expenses and fees, including reasonable  
36 attorneys' fees.

37 The legislative body may authorize any of its public officers or  
38 employees to authorize release or reduction of the security in  
39 accordance with the conditions hereinabove set forth and in  
40 accordance with any rules that it may prescribe.

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